

Exhibit 28

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14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION
18

19 ALPHA & OMEGA SEMICONDUCTOR,
LTD., a Bermuda corporation; and
20 ALPHA & OMEGA SEMICONDUCTOR,
INC., a California corporation,

21 Plaintiffs and Counterdefendants,

22 v.
23

24 FAIRCHILD SEMICONDUCTOR
CORP., a Delaware corporation,

25 Defendant and Counterclaimant.
26

27 AND RELATED COUNTERCLAIMS.
28

Case No. C 07-2638 JSW
(Consolidated with Case No. C-07-2664 JSW)

**AOS'S PRELIMINARY INVALIDITY
CONTENTIONS FOR U.S. PATENT NOS.
6,429,481, 6,521,497, 6,710,406, 6,828,195,
7,148,111, AND 6,818,947 PURSUANT TO
PATENT L.R. 3-3**

1 Plaintiffs and Counterdefendants Alpha & Omega Semiconductor, Ltd. and Alpha &
 2 Omega Semiconductor, Inc. (collectively, "AOS") hereby provide the following invalidity claim
 3 charts for six asserted U.S. Patents, including U.S. Patent Nos. 6,429,481, 6,521,497, 6,710,406,
 4 6,828,195, and 7,148,111 (collectively, "the Mo Patents") and U.S. Patent No. 6,818,947 ("the
 5 '947 Patent"), pursuant to Patent L.R. 3-3 and the stipulated schedule in response to the two
 6 Disclosures of Asserted Claims and Preliminary Infringement Contentions prepared by Fairchild
 7 Semiconductor Corporation ("Fairchild").

8 For each asserted claim of the six asserted Fairchild Patents, AOS hereby: (1) identifies
 9 each prior art reference that either anticipates the claim or renders the claim obvious; (2)
 10 identifies where within each prior art reference each claim element is found; and (3) identifies
 11 whether these prior art references anticipate the claim or render the claim obvious and identifies
 12 combinations of prior art references that render the claim obvious.

13 As an initial matter, AOS notes that AOS is providing these invalidity claim charts while
 14 discovery from Defendant and Counterclaimant Fairchild is still in its early stages. In particular,
 15 Fairchild has not provided proper discovery in response to AOS's interrogatories and requests for
 16 production relating to the six asserted Fairchild Patents. Moreover, depositions of persons
 17 involved in the drafting and prosecution of the asserted Fairchild patents will likely reveal more
 18 information that affects the conclusions herein. In addition, the Court has not yet construed the
 19 claims. Further, Fairchild has not yet disclosed its theories of infringement; in particular,
 20 Fairchild has not yet disclosed its theories regarding certain recited properties of the claim
 21 elements. Accordingly, AOS reserves the right to supplement this response chart as it obtains
 22 further discovery from Fairchild or as otherwise permitted by the Court or the applicable rules.

23 **I. Patent Local Rule 3-3 Response Chart**

24 **A. Identification of Prior Art**

25 Presently, AOS intends to at least rely upon the following prior art patents and references:

- 26 • U.S. Patent No. 4,374,455
- 27 • U.S. Patent No. 5,072,266
- 28 • U.S. Patent No. 5,233,215

- 1 • U.S. Patent No. 5,316,959
- 2 • U.S. Patent No. 5,349,224
- 3 • U.S. Patent No. 5,352,915
- 4 • U.S. Patent No. 5,405,794
- 5 • U.S. Patent No. 5,430,324
- 6 • U.S. Patent No. 5,460,985
- 7 • U.S. Patent No. 5,527,720
- 8 • U.S. Patent No. 5,597,765
- 9 • U.S. Patent No. 5,629,543
- 10 • U.S. Patent No. 5,656,843
- 11 • U.S. Patent No. 5,674,766
- 12 • U.S. Patent No. 5,689,128
- 13 • U.S. Patent No. 5,701,023
- 14 • U.S. Patent No. 5,814,858
- 15 • U.S. Patent No. 5,864,159
- 16 • U.S. Patent No. 5,877,528
- 17 • U.S. Patent No. 5,910,669
- 18 • U.S. Patent No. 5,930,630
- 19 • U.S. Patent No. 5,998,833
- 20 • U.S. Patent No. 5,998,836
- 21 • U.S. Patent No. 6,031,265
- 22 • U.S. Patent No. 6,118,150
- 23 • U.S. Patent No. 6,404,025
- 24 • U.S. Patent No. 6,838,722
- 25 • European Patent Application No. 0159663
- 26 • Japanese Patent Application No. 1995066395
- 27 • Japanese Patent Application No. 1998214968
- 28 • B Jayant Baliga, "Power Semiconductor Devices," PWS Publishing Company,

1996 (“the Baliga book”)

- Grant, D.A., Gowar, J., “Power MOSFETs: Theory and Applications,” A. Wiley-Interscience Publication, 1989 (“the Grant book”)

Additionally, AOS intends to rely on the inventor admissions made in the six asserted Fairchild Patents relating to the scope of prior art teaching, including but not limited to: U.S. Patent No. 6,429,481 and its Prosecution History; U.S. Patent No. 6,521,497 and its Prosecution History; U.S. Patent No. 6,710,406 and its Prosecution History; U.S. Patent No. 6,828,195 and its Prosecution History; U.S. Patent No. 7,148,111 and its Prosecution History; U.S. Patent No. 6,818,947 and its Prosecution History; as well as any patent applications filed in any other jurisdictions (including PCT applications) that are related to any of the six asserted Fairchild patents and their respective prosecution histories. AOS also reserves the right to rely upon other prior art uncovered during the course of discovery including, for example, Fairchild’s own sales, offers for sale, use, or disclosures prior to the invention dates of the asserted Fairchild Patents.

B. Identification of Asserted Claim Elements of the Six Asserted Fairchild Patents in Prior Art

Presented below are locations within each listed prior art reference of the various elements of the asserted claims of the six asserted Fairchild Patents. Although specific references are made, each particular reference may contain additional discussion of a given claim element at other locations. Thus, the following description is made in an effort to identify each claim element as being contained in the respective references and is not intended to be an exhaustive listing of all teachings of a particular claim element within each prior art reference. AOS reserves the right to contend that other claims of the asserted Fairchild Patents are invalid; for example, if Fairchild amends its infringement contentions to assert other claims, AOS reserves the right to assert invalidity of those claims.

U.S. Patent No. 6,429,481	Prior Art References
1. A trenched field effect transistor comprising:	AOS does not express a position at this time as to whether the preamble of this claim limits the claim’s scope. Nevertheless, AOS identifies here teachings of the claim’s

5,460,985, U.S. 5,405,794 renders the Mo Patents obvious;

- U.S. 5,998,833, when combined with U.S. 5,233,215, renders the '947 Patent obvious;
- U.S. 5,998,833, when combined with U.S. 5,430,324, renders the '947 Patent obvious;
- U.S. 5,998,833, when combined with U.S. 5,597,765, renders the '947 Patent obvious;
- U.S. 5,998,833, when combined with U.S. 5,877,528, renders the '947 Patent obvious;
- U.S. 5,998,833, when combined with U.S. 6,838,722, renders the '947 Patent obvious; and
- Any combination of the inventor admissions of prior art teachings in the '947 Patent, the Baliga book, and U.S. 5,233,215, U.S. 5,430,324, U.S. 5,597,765, U.S. 5,877,528, U.S. 5,998,833, U.S. 6,838,722 renders the '947 Patent obvious.

Besides the examples listed above, there are many additional alternative combinations of references that may be arranged, with each combination reading on each element of a particular asserted claim. AOS asserts that each such combination would render such asserted claim of the six asserted Fairchild Patents obvious to any person skilled in the art. AOS has not yet completed its investigation of this matter and reserves the right to identify prior art and/or additional combinations of prior art that render the six asserted Fairchild Patents obvious in connection with further discovery, claim construction, the parties' exchange of expert reports, and as appropriate under Patent L.R. 3-6.

D. Additional Invalidity Claims against the Six Asserted Fairchild Patents

Besides the invalidity claims listed above under 35 U.S.C. §§102 and 103, AOS hereby asserts the following invalidity claims against the six asserted Fairchild Patents under 35 U.S.C. §112. AOS reserves its right to revise and/or amend the following claims pursuant to Federal Rule of Civil Procedure 26(e) and the Orders of record in this matter to the extent appropriate in light of further investigation and discovery regarding the defenses, the Court's construction of the

claims at issue, and the review and analysis of expert witnesses.

1. Written Description

The six asserted Fairchild Patents are invalid under 35 U.S.C. §112, ¶1, as not containing a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable a person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention.

2. Enablement

The six asserted Fairchild Patents are invalid under 35 U.S.C. §112, ¶1, as not containing a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable a person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention.

3. Best Mode

AOS hereby asserts that the six asserted Fairchild Patents are invalid because the inventors failed to disclose the best mode contemplated by the inventors of carrying out the inventions of the six asserted Fairchild Patents as required by 35 U.S.C. §112, ¶1.

4. Indefiniteness and Lack of Particularity

The six asserted Fairchild Patents are invalid under 35 U.S.C. §112, ¶2, as not particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Dated: November 29, 2007

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Andrew J. Wu

Andrew J. Wu
Attorneys for Plaintiffs and Counterdefendants
ALPHA & OMEGA SEMICONDUCTOR, LTD.
AND ALPHA & OMEGA SEMICONDUCTOR,
INC.

CERTIFICATE OF SERVICE

I am employed in the City of Palo Alto, County of Santa Clara, State of California, I am over the age of 18 years and not a party to the within action. My business address is 2 Palo Alto Square, 3000 El Camino Real, Palo Alto, California 94306. On November 29, 2007, I caused copies of the attached document(s) described as follows:

AOS'S PRELIMINARY INVALIDITY CONTENTIONS FOR U.S. PATENT NOS. 6,429,481, 6,521,497, 6,710,406, 6,828,195, 7,148,111, AND 6,818,947 PURSUANT TO PATENT L.R. 3-3; ONE CD CONTAINING NOVEMBER 29, 2007 PRODUCTION AOS_F0001-33320 - 000114024


to be served on:

Eric P. Jacobs, Esq.
Igor Shoiket, Esq.
Matthew Hulse, Esq.
Leonard J. Augustine, Esq.
Priya Sreenivasan, Esq.

TOWNSEND & TOWNSEND
2 Embarcadero Center, 8th Floor
San Francisco, CA 94111

- ☐ (BY OVERNIGHT DELIVERY) I caused each such envelope to the addressee(s) noted above, with charges fully prepaid, to be sent by overnight delivery from Palo Alto, California. I am readily familiar with the practice of Morgan, Lewis & Bockius LLP for collection and processing of correspondence for overnight delivery, said practice being that in the ordinary course of business, mail is placed with the overnight delivery service on the same day as it is placed for collection.
- ☒ (BY FIRST CLASS MAIL) I caused each such envelope to the addressee(s) noted above, with postage thereon fully prepaid, to be placed in the United States mail in Palo Alto, California. I am readily familiar with the practice of Morgan, Lewis & Bockius LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business mail is deposited in the United States Postal Service the same date as it is placed for collection.
- ☐ (BY PERSONAL SERVICE) The person whose name is noted below caused to be delivered by hand each such envelope to the addressee(s) noted above.
- ☐ (BY FACSIMILE) The person whose name is noted below caused to be transmitted by facsimile each such document to the addressee(s) noted above.
- ☐ (BY ELECTRONIC MAIL) The person whose name is noted below caused to be transmitted by electronic mail each such document to the addressee(s) noted above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California, on November 29, 2007.


Colette C. Aragon